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10 **BEFORE THE**  
**PHYSICAL THERAPY BOARD**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 ABRAHAM ORTIZ, III, LPT  
11489 Laurel Avenue  
14 Loma Linda, CA 92354

15 Physical Therapy License No. PT 22645

16 Respondent.

Case No. 1D 2007 64926

OAH No. 2008040761

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical  
22 Therapy Board of California. He brought this action solely in his official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Michael S. Cochrane, Deputy Attorney General.

25 2. Respondent Abraham Ortiz, III, LPT (Respondent) is represented in this  
26 proceeding by attorney Samuel Spital, Esq., whose address is 8880 Rio San Diego Drive, Suite  
27 800, San Diego, CA 92108-1642.  
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3. On or about October 30, 1997, the Physical Therapy Board of California (Board) issued Physical Therapy License No.22645 to Respondent.

## JURISDICTION

4. Accusation No. 1D 2007 64926 was filed before the Board, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on March 25, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 1D 2007 64926 is attached as Exhibit A and incorporated herein by reference.

## **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1D 2007 64926. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the complete truth and accuracy of each and every charge and allegation in Accusation No. 1D 2007 64926.

9. Respondent agrees that he is subject to discipline and he will be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

1                   10.     The Admissions made by respondent herein are only for the purpose of  
2 this proceeding, or any proceedings in which the Board or any other professional licensing  
3 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

4   **CONTINGENCY**

5                   11.     This Stipulated Settlement and Disciplinary Order shall be subject to  
6 approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order  
7 shall be submitted to the Board for its consideration in the above-entitled matter and, further, that  
8 the Board shall have a reasonable period of time in which to consider and act on this stipulation  
9 after receiving it. By signing this stipulation, Respondent fully understands and agrees that he  
10 may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board  
11 considers and acts upon it.

12                   12.     The parties agree that this Stipulated Settlement and Disciplinary Order  
13 shall be null and void and not binding upon the parties unless approved and adopted by the Board,  
14 except for this paragraph, which shall remain in full force and effect. Respondent fully  
15 understands and agrees that in deciding whether or not to approve and adopt this Stipulated  
16 Settlement and Disciplinary Order, the Board may receive oral and written communications from  
17 its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall  
18 not disqualify the Board, any member thereof, and/or any other person from future participation  
19 in this or any other matter affecting or involving Respondent. In the event that the Board, in its  
20 discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with  
21 the exception of this paragraph, it shall not be relied upon or introduced in any disciplinary action  
22 by either party hereto. Respondent further agrees that should the Board reject this Stipulated  
23 Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the  
24 Board, or any member thereof, was prejudiced by its/his/her review, discussion, and  
25 consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters  
26 related hereto.

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14. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures of the parties, may be used in lieu of original documents and signatures and, further, that facsimile copies and signatures shall have the same force and effect as originals.

## DISCIPLINARY ORDER

## 1. RESTRICTION OF PRACTICE - SUPERVISION REQUIRED

Failure to comply with any component of this condition as specified above is a violation of probation.

The respondent shall not provide physical therapy services in a patient's home.

### 3. RESTRICTION OF PRACTICE - PROHIBITION NOT TO TREAT FEMALE PATIENTS UNDER THE AGE OF SIXTY (60)

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Failure to comply with any component of this condition as specified above is a violation of probation.

**4. RESTRICTION OF PRACTICE - SOLO PRACTICE**

The respondent shall be prohibited from engaging in the solo practice of physical therapy.

Failure to comply with any component of this condition as specified above is a violation of probation.

**5. RESTRICTION OF PRACTICE - PRESENCE OF ANOTHER PHYSICAL THERAPIST REQUIRED**

The respondent shall be prohibited from working any shift in which there is no other physical therapist on duty.

Failure to comply with any component of this condition as specified above is a violation of probation.

**6. RESTRICTION OF PRACTICE - PROHIBITION OF SELF EMPLOYMENT OR OWNERSHIP**

Respondent shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Respondent shall not be a Board member or an officer or have a majority interest in any corporation that offers or provides physical therapy services.

Failure to comply with any component of this condition as specified above is a violation of probation.

**7. RESTRICTION OF PRACTICE - THIRD PARTY PRESENCE**

During probation, respondent shall have a third party present while examining or treating female patients over the age of sixty (60). Respondent shall, within 10 days of the effective date of the decision, submit to the Board or its designee for its approval name(s) of person(s) who will act as the third party present. The respondent shall execute a release authorizing the third party present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis. The person(s) acting in the role of the third party present shall be provided with a copy of the Accusation and Decision and Order.

Failure to comply with any component of this condition as specified above is a violation

of probation.

## **8. COMMUNITY SERVICES**

The respondent shall be required to provide community service without compensation within the State of California as part of the probation. Respondent shall complete 160 hours of community service within the first three years of probation. The respondent shall submit for prior approval a community service program to the Board or its designee.

Failure to comply with any component of this condition as specified above is a violation of probation.

## **9. PSYCHOTHERAPY**

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist.

If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of physical therapy without restrictions, the Board shall remain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Board determines that respondent is mentally fit to resume the practice of physical therapy without restrictions. Respondent shall pay the cost of all psychotherapy and psychiatric

1 evaluations.

2 Failure to undergo and continue psychotherapy treatment, or comply with any  
3 required modification in the frequency of psychotherapy, is a violation of probation.

4 **10. PROBATION MONITORING COSTS**

5 Respondent shall reimburse all costs incurred by the Board for probation monitoring  
6 during the entire period of probation. Respondent will be billed at least quarterly. Such costs  
7 shall be made payable to the Physical Therapy Board of California. Failure to make ordered  
8 reimbursement within 60 days of the billing shall constitute a violation of the probation order.

9 Failure to comply with any component of this condition as specified above is a violation  
10 of probation.

11 **11. COST RECOVERY**

12 The respondent is ordered to reimburse the Board the actual and reasonable investigative  
13 and prosecutorial costs incurred by the Board in the amount of \$14,283. Said costs shall be  
14 reduced, however, and the remainder forgiven, if Respondent pays \$7,000 of said costs within  
15 ninety (90) days of the effective date of the Decision. In the event Respondent fails to pay  
16 within ninety (90) days of the Decision, the full amount of costs shall be immediately due and  
17 payable. Failure to pay the ordered reimbursement, or any agreed upon payment, shall constitute  
18 a violation of the probation order. The filing of bankruptcy by Respondent shall not relieve  
19 Respondent of his responsibility to reimburse the Board. If Respondent is in default of his  
20 responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise  
21 Tax Board, the Internal Revenue Service or by any other means of attachment of earned wages  
22 legally available to the Board. Failure to fulfill the obligation could also result in attachment to  
23 the Department of Motor Vehicle registrations and/or license renewals.

24 Failure to comply with any component of this condition as specified above is a violation  
25 of probation.

26 **12. OBEY ALL LAWS**

27 Respondent shall obey all federal, state and local laws, and statutes and regulations  
28 governing the practice, inspections and reporting, of physical therapy in California and remain in

1 full compliance with any court ordered criminal probation.

2 Failure to comply with any component of this condition as specified above is a violation  
3 of probation.

4 **13. COMPLIANCE WITH ORDERS OF A COURT**

5 The respondent shall be in compliance with any valid order of a court. Being found in  
6 contempt of any court order is a violation of probation.

7 Failure to comply with any component of this condition as specified above is a violation  
8 of probation.

9 **14. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF**  
10 **RESTITUTION**

11 Respondent shall not violate any terms and conditions of criminal probation and shall be  
12 in compliance with any restitution ordered, payments or other orders.

13 Failure to comply with any component of this condition as specified above is a violation  
14 of probation.

15 **15. QUARTERLY REPORTS**

16 Respondent shall submit quarterly declarations under penalty of perjury on forms  
17 provided by the Board, stating whether there has been compliance with all the conditions of  
18 probation.

19 Failure to comply with any component of this condition as specified above is a violation  
20 of probation.

21 **16. PROBATION MONITORING PROGRAM COMPLIANCE**

22 Respondent shall comply with the Board's probation monitoring program.

23 Failure to comply with any component of this condition as specified above is a violation  
24 of probation.

25 **17. INTERVIEW WITH THE BOARD OR ITS DESIGNEE**

26 Respondent shall appear in person for interviews with the Board, or its designee, upon  
27 request at various intervals.

28 Failure to comply with any component of this condition as specified above is a violation



of probation.

**18. NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS**

The respondent shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Initial Probationary License, Statement of Issues, Accusation and the Decision and Order, or Stipulated Settlement to the employer, and submit written employer confirmation of receipt to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.

Failure to comply with any component of this condition as specified above is a violation of probation.

**19. NOTIFICATION OF CHANGE OF NAME OR ADDRESS**

The respondent shall notify the Board, in writing, of any and all name and/or address changes within ten (10) days of the effective date of the Decision of the Board.

Failure to comply with any component of this condition as specified above is a violation of probation.

**20. RESTRICTION OF PRACTICE - TEMPORARY SERVICES AGENCIES**

The respondent shall not work for a temporary services agency or registry.

**21. RESTRICTION OF PRACTICE - CLINICAL INSTRUCTOR OF  
PHYSICAL THERAPY STUDENT INTERNS OR FOREIGN EDUCATED  
PHYSICAL THERAPIST LICENSE APPLICANTS PROHIBITED**

Respondent shall not supervise any physical therapy student interns or foreign educated physical therapist license applicants during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation.

**22. PROHIBITED USE OF ALIASES**

Respondent may not use aliases and shall be prohibited from using any name which is not his legally-recognized name or based upon a legal change of name.

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1           **23.     INTERMITTENT WORK**

2           If the respondent works less than 192 hours as a physical therapist or a physical therapist  
3 assistant in the physical therapy profession in a period of three months, those months shall not be  
4 counted toward satisfaction of the probationary period. The respondent shall notify the Board if  
5 he works less than 192 hours in a three month period.

6           **24.     TOLLING OF PROBATION**

7           The period of probation shall run only during the time respondent is practicing or  
8 performing physical therapy within California. If, during probation, respondent does not practice  
9 or perform within California, respondent is required to immediately notify the probation monitor  
10 in writing of the date that respondent is practicing or performing physical therapy out of state,  
11 and the date of return, if any. Practicing or performing physical therapy by the respondent in  
12 California prior to notification to the Board of the respondent's return will not be credited toward  
13 completion of probation. Any order for payment of cost recovery shall remain in effect whether  
14 or not probation is tolled.

15           **25.     VIOLATION OF PROBATION**

16           If respondent violates probation in any respect, the Board, after giving respondent notice  
17 and the opportunity to be heard, may revoke probation and carry out the disciplinary order that  
18 was stayed. If an accusation or petition to revoke probation is filed against respondent during  
19 probation, the Board shall have continuing jurisdiction until the matter is final, and the period of  
20 probation shall be extended until the matter is final.

21           **26.     REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT,**  
22           **HEALTH OR OTHER REASONS**

23           Following the effective date of this probation, if respondent ceases practicing or  
24 performing physical therapy due to retirement, health or other reasons or is otherwise unable to  
25 satisfy the terms and conditions of probation, respondent may request to surrender his license to  
26 the Board. The Board reserves the right to evaluate the respondent's request and to exercise its  
27 discretion whether to grant the request or to take any other action deemed appropriate and  
28 reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms

1 and conditions of probation shall be tolled until such time as the license is no longer renewable,  
2 the respondent makes application for the renewal of the tendered license or makes application for  
3 a new license.

4       **27.     COMPLETION OF PROBATION**

5       Upon successful completion of probation, respondent's license shall be fully restored.

6       **28.     CALIFORNIA LAW EXAMINATION - WRITTEN EXAM ON THE**  
7               **LAWS AND REGULATIONS GOVERNING THE PRACTICE OR**  
8               **PERFORMANCE OF PHYSICAL THERAPY**

9       Within 90 days of the effective date of this decision, respondent shall take and pass the  
10 Board's written examination on the laws and regulations governing the practice of physical  
11 therapy in California. If respondent fails to pass the examination, respondent shall be suspended  
12 from the practice of physical therapy until a repeat examination has been successfully passed.

13       **29.     PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY**  
14               **WHILE ON PROBATION**

15       It is not contrary to the public interest for the respondent to practice and/or perform  
16 physical therapy under the probationary conditions specified in the disciplinary order.  
17 Accordingly, it is not the intent of the Board that this order, the fact that the respondent has been  
18 disciplined, or that the respondent is on probation, shall be used as the sole basis for any third  
19 party payer to remove respondent from any list of approved providers.

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board..

DATED: JULY 7, 2008

EDMUND G. BROWN JR.,  
Attorney General of the State of California  
  
THOMAS S. LAZAR  
Supervising Deputy Attorney General

ORIGINAL SIGNED BY:  
MICHAEL S. COCHRANE  
Deputy Attorney General  
  
Attorneys for Complainant

DOJ Matter ID: SD2007600353  
Ortiz, Abraham-Stip Settlement.wpd

**Exhibit A**

**Accusation No. 1D 2007 64926**

**BEFORE THE  
PHYSICAL THERAPY BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ABRAHAM ORTIZ, III, LPT  
11489 Laurel Avenue  
Loma Linda, CA 92354

Physical Therapy License No. PT 22645

Respondent.

Case No. 1D 2007 64926

OAH No. 2008040761

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board, as its Decision in this matter.

This Decision shall become effective on SEPTEMBER 15, 2008 .

It is so ORDERED AUGUST 13, 2008 .

ORIGINAL SIGNED BY:  
FOR THE PHYSICAL THERAPY BOARD

Nancy Krueger, PT  
President